

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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OPERATING ENGINEERS' LOCAL 324  
FRINGE BENEFIT FUNDS,

Plaintiff,

v.

Case No. 10-15072

DEMREX INDUSTRIAL SERVICES,  
INC., et al.,

Defendants.

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**ORDER DIRECTING DEFENDANTS TO PRODUCE DISCOVERY OR  
SUBMIT WEEKLY SWORN STATEMENTS  
AND  
SCHEDULING A TELEPHONIC CONFERENCE**

On December 4, 2012, the parties participated in another in a series of off-the-record telephonic conferences with the court to discuss whether Defendants have complied with this court's November 14, 2012 order and produced the five discovery requests detailed in Plaintiff's October 20, 2012 email. While the order directed Defendants to produce the discovery requests by November 22, 2012, Defendants have failed to produce Barry Portnoy's 2007, 2008, 2009, and 2011 federal tax returns. Taking into consideration Defendants' history of being reluctant to produce discovery, the court finds the following order to be necessary and appropriate. Accordingly,

IT IS ORDERED that Defendants are DIRECTED to produce Barry Portnoy's 2007, 2008, and 2009 federal tax returns by **December 11, 2012**. If Defendants do not produce the tax returns by that date, then Defendants are DIRECTED to file by **December 11, 2012**, Mr. Portnoy's sworn statement describing in detail the steps he

has taken during the preceding week to obtain and provide his 2007, 2008, and 2009 federal tax returns. Defendants are further DIRECTED to file on every succeeding Tuesday until the tax returns are produced Mr. Portnoy's sworn statement specifying in detail the steps he has taken during the preceding week to obtain and provide his 2007, 2008, and 2009 federal tax returns.

IT IS FURTHER ORDERED that Defendants are DIRECTED to produce Barry Portnoy's 2011 federal tax returns by **December 11, 2012**. If Defendants do not produce the tax return by that date, then Defendants are DIRECTED to file by **December 11, 2012**, Mr. Portnoy's sworn statement explaining why the 2011 federal tax return has not been produced, and by the same date provide to Plaintiff the underlying documents and data that would be necessary to file his 2011 federal tax return with the Internal Revenue Service.

Further, if Defendants have failed to produce Barry Portnoy's 2007, 2008, 2009, and 2011 tax returns by **December 18, 2012**, the court will order all individual Defendants to be personally present at a status conference on the record on **January 9, 2013, at 3:00 p.m.** at 231 W. Lafayette Blvd., Room 712, Detroit, MI 48226, in order to fully explain to the court why Defendants have not yet produced the outstanding tax returns.

Finally, IT IS ORDERED that counsel shall participate in a telephonic status conference on **December 19, 2012 at 11:00 am.** The court will initiate the call.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: December 4, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 4, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522